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Order 2003-11-23  
Served: November 28, 2003



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 24<sup>th</sup> day of November, 2003

Fitness Determination of

**VALLEY AIR EXPRESS, INC.**

as a commuter air carrier under section 49 U.S.C. 41738

**Docket OST-02-13159-16**

**ORDER ISSUING EFFECTIVE COMMUTER AIR CARRIER AUTHORIZATION  
AND CONFIRMING ORAL ACTION**

**Summary**

By this order, we (1) confirm our oral action of November 21, 2003, making the commuter authority issued to Valley Air Express, Inc., effective and (2) reissue to the carrier its Commuter Air Carrier Authorization authorizing it to engage in scheduled passenger operations to reflect its effective date.

**Background**

By Order 2003-5-30, served May 29, 2003, the Department found that Valley Air Express was fit, willing, and able to conduct scheduled passenger air transportation as a commuter air carrier.

The commuter authority was to become effective on the sixth (business) day after we had received, among other things, a copy of Valley Air Express' Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA) authorizing it to engage in scheduled passenger operations, a description of any fitness-related changes the company had undergone since the date of the show cause order in this case,<sup>1</sup> evidence that the company continued to have available funding sufficient to meet our financial fitness criteria for the operations at issue, and evidence that the company had obtained liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.

<sup>1</sup> See Order 2003-5-16 issued May 13, 2003.

On October 16, 2003, Valley Air Express submitted evidence that it had received FAA authority to engage in scheduled passenger operations, together with some, but not all, of the other information we required. By letter dated October 21, 2003, we requested that the company supply certain additional information and stayed effectiveness of Valley Air Express' commuter air carrier authority for a period of 30 days (that is, until November 21) or until such time as Valley Air Express had satisfied all of the requirements for issuance of effective commuter authority.<sup>2</sup>

On October 24, 2003, the company submitted some of the requested information. However, the third-party verification of financial resources available to Valley Air Express did not reflect funds sufficient to meet our financial fitness criteria and, as a result, we notified the company that, until it supplied such information, effectiveness of its commuter authority would remain stayed. On November 21, 2003, Valley Air Express filed evidence that it had obtained sufficient funds to meet our fitness criteria.<sup>3</sup> As a result, on that date, we advised the company that we were making its commuter air carrier authority effective immediately. By this order, we confirm that action and reissue to Valley Air Express its Commuter Air Carrier Authorization to reflect the November 21, 2003, effective date.

**ACCORDINGLY**, Acting under authority assigned by the Department in its Regulations, 14 CFR 385.12:

1. We confirm our oral action of November 21, 2003, making the commuter air carrier authority issued to Valley Air Express, Inc., effective on that same date.
2. We reissue to Valley Air Express, Inc., the Commuter Air Carrier Authorization issued to it by Order 2003-5-30 in the attached form to reflect its effective date.
3. We will serve a copy of this order on the persons listed in Attachment A.

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<sup>2</sup> Specifically, we asked that the company provide: (1) verification that its first year operating plans and associated financial projections remained unchanged from those described in the show cause order, (2) a current balance sheet and twelve-month income statement, (3) independent third-party verification of the funds available to the carrier to meet our financial fitness criteria, (4) an updated Form 4507 reflecting the scheduled passenger operations at issue, and (5) an amended Form 6410 indicating coverage at the level required for commuter air carriers.

<sup>3</sup> Valley Air Express submitted a copy of a letter issued by the American River Bank of Sacramento confirming that, as of close of business on November 20, 2003, it had an account balance of \$300,000. This amount was adequate to cover its current working capital deficit of \$156,508 (as of September 30, 2003), as well as to cover one-quarter of its projected first year commuter air carrier operating expenses (\$139,038).

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The action confirmed in this order was effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

**RANDALL D. BENNETT**  
Director  
Office of Aviation Analysis

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<http://dms.dot.gov>*



*Commuter Air Carrier Authorization*  
(as reissued)

**VALLEY AIR EXPRESS, INC.**

*is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in scheduled passenger air transportation operations as a commuter air carrier.*

*This authorization is not transferable without the approval of the Department of Transportation.*

*By Direction of the Secretary*

*Issued by Order 2003-11-23  
On November 24, 2003  
Effective on November 21, 2003*

*Randall D. Bennett  
Director  
Office of Aviation Analysis*

*\*As reissued by  
Order 2003-11-23  
Attachment*



## *Terms, Conditions, and Limitations*

### **VALLEY AIR EXPRESS, INC.**

*is authorized to engage in scheduled passenger air transportation operations as a commuter air carrier.*

*This authority is subject to the following provisions:*

- (1) The holder shall at all times conduct its operations in accordance with the requirements of 14 CFR Part 298 and any other regulations prescribed by the Department of Transportation for the services authorized here, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder may not operate aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.*
- (3) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all U.S. Government requirements concerning security.\*\**
- (4) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (5) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render this authority ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this authority.*
- (6) The holder shall maintain in effect at all times with the Department of Transportation current information on OST Registration Form 4507.*

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*\* This authority is being reissued to reflect its effective date.*

*\*\* To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.*

- (7) *The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of 49 U.S.C. 41734 and all orders and regulations issued by the Department of Transportation under that section.*
- (8) *The holder may not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979, as amended by section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1998.*
- (9) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*
- (10) *In the event that the holder commences but subsequently ceases all scheduled passenger operations, the authority granted here shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume such operations within one year of its cessation, its commuter authority shall be revoked for dormancy.*

**SERVICE LIST FOR VALLEY AIR EXPRESS, INC.  
DOCKET OST-02-13159**

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